

Congress of the United States

Washington, DC 20515

January 31, 2017

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, D.C. 20548

Dear Mr. Dodaro:

The Government Accountability Office (GAO) has released several reports identifying thousands of federal contractors with substantial amounts of unpaid taxes.¹ More recently, the Treasury Inspector General for Tax Administration (TIGTA) found even the Internal Revenue Service's tax check process was not effective in identifying tax delinquent IRS contractors.² These reports raise serious questions about federal agencies' ability to identify and prevent contractors with tax debts from receiving awards. Consequently, we request that you initiate work to further study this issue.

Under the Federal Acquisition Regulation (FAR), contractors must certify whether they have been notified within the last three years of any unsatisfied delinquent federal taxes greater than \$3,500 when submitting a proposal for contracts valued above the simplified acquisition threshold.³

Once contractors make this certification as to their tax status, agency contracting officers face significant challenges in verifying this information and identifying contractors with federal tax debts. These challenges are due to several factors, including the quality of data available in various databases, limits on the disclosure of taxpayer information to entities outside the IRS,⁴ and identifying the true owners of corporations, particularly those with opaque ownership structures.

¹ GOV'T ACCOUNTABILITY OFFICE, GAO-07-742T, TAX COMPLIANCE: THOUSANDS OF FEDERAL CONTRACTORS ABUSE THE FEDERAL SYSTEM (2007), *available at* <http://www.gao.gov/products/GAO-07-742T>; GOV'T ACCOUNTABILITY OFFICE, GAO-08-618, MEDICARE: THOUSANDS OF MEDICARE PROVIDERS ABUSE THE FEDERAL TAX SYSTEM (2008), *available at* <http://www.gao.gov/products/GAO-08-618>; GOV'T ACCOUNTABILITY OFFICE, GAO-11-485, RECOVERY ACT: THOUSANDS OF RECOVERY ACT CONTRACT AND GRANT RECIPIENTS OWE HUNDREDS OF MILLIONS IN FEDERAL TAXES (2011), *available at* <http://www.gao.gov/products/GAO-11-485>.

² TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, SIGNIFICANT IMPROVEMENTS ARE NEEDED IN THE CONTRACTOR TAX CHECK PROCESS 4 (2016), *available at* <https://www.treasury.gov/Tigta/auditreports/2016reports/201610049fr.pdf>.

³ FAR § 52.209-5. There are general provisions in several annual Appropriations Acts that address tax delinquent contractors. Pub. L. No. 114-113, Division E § 745.

⁴ 26 U.S.C § 6103.

It is important to initiate additional work in this area to fulfill our obligation to ensure effective oversight of taxpayer funds. This means federal contracts should only be awarded to responsible contractors that follow the law and pay their fair share of taxes. In addition more effective identification of contractors with unpaid federal tax debts could help reduce the tax gap, which is the difference between taxes owed and taxes paid on time. In 2016, the IRS estimated the tax gap for tax years 2008-2010 was \$458 billion.⁵

To follow up on your previous work on tax delinquent contractors, we request that GAO initiate a new review in this area. Specifically, GAO's review of tax delinquent contractors should address the following:

1. The accuracy of the certifications made by contractors in regard to tax delinquency;⁶
2. The extent to which contracts are awarded to contractors with federal tax debt and the magnitude of the federal tax debt owed in these cases;
3. The extent to which contractors with federal tax debt are attempting to address that debt with the IRS;
4. The challenges, if any, contracting officers face in obtaining relevant and reliable information related to federal tax debts and ownership prior to awarding a contract; and
5. The factors contracting officers consider when making an award to a contractor with a federal tax debt.

In addition, to the extent feasible, please provide case study examples of contractors with undisputed federal tax debts and the reasons why they were awarded federal contracts despite the tax debt.

With respect to this review, Chairman Brady authorizes GAO, pursuant to Section 6103(f)(3)(A) of the Internal Revenue Code, to have access to the necessary tax information to perform this work. He expects that your representatives will have access to all relevant IRS files, records, and tax returns for these purposes and will comply with all the restrictions that protect taxpayer information.

⁵ INTERNAL REVENUE SERVICE, TAX GAP ESTIMATES FOR TAX YEARS 2008-2010 1 (2016), *available at* <https://www.irs.gov/PUP/newsroom/tax%20gap%20estimates%20for%202008%20through%202010.pdf>.

⁶ FAR § 52.209-5(a)(1)(i)(D).

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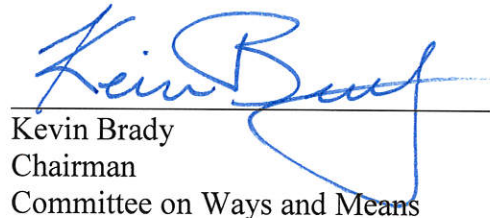
Please provide updates on the status of your work to Committee staff. If you have any questions about this request, please contact Drew Baney of the Oversight Committee majority staff at (202) 225-5074, Mark Stephenson of the Oversight Committee minority staff at (202) 225-5051, Rachel Kaldahl of the Committee on Ways and Means majority staff at (202) 225-3625, and Karen McAfee of the Committee on Ways and Means minority staff at (202) 225-4021. Thank you for your attention to this matter

Sincerely,



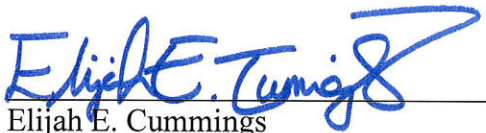
Jason Chaffetz
Chairman

Committee on Oversight and Government Reform



Kevin Brady
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Ranking Member

Committee on Oversight and Government Reform



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